

REDISTRICTING LOS ANGELES COUNTY IN 2011



LEGAL ISSUES

Los Angeles County's Redistricting Process Must Comply With...

- U.S. Constitution
- Federal Statutes and Regulations
- State Statutes
- County Charter
- Applicable Court Decisions

U.S. Constitutional Mandate

- 14th Amendment requires equal treatment.
- One Person, One Vote.
- Plan must achieve “substantial equality of population among the various districts”.
Reynolds v. Sims, 377 U.S. 533 (1964).
- However, local electoral districts do not require perfect equality. Some deviation may be OK if necessary to achieve a rational state policy.

U.S. Constitutional Mandate (continued)...

- There is no “safe harbor” deviation percentage that would eliminate the need to have a rational state policy. *Larios v. Cox*, 305 F. Supp. 2d 1335 (2004).
- Don’t ask “Is a deviation of 2% ok?”
- Ask
 - What is the policy that requires the deviation?
 - Why is the deviation necessary to achieve it?

U.S. Constitutional Mandate (continued)...

- No racial gerrymandering. The 14th Amendment prohibits using race as the “predominant” criterion in drawing districts to the subordination of traditional race-neutral districting principles. *Shaw v. Reno*, 509 U.S. 630 (1993); *Miller v. Johnson*, 515 U.S. 900 (1995).
- Cannot use race as predominant factor in redistricting.

U.S. Constitutional Mandate (continued)...

- It does not, however, prohibit all consideration of race in redistricting. *Easley v. Cromartie*, 532 U.S. 234 (2001).
- Traditional standards must prevail unless narrow tailoring to serve compelling state interest.
- Do not need to maximize minority districts.
- Appearances do matter – Bizarre shapes may trigger closer scrutiny.

Measuring Equality of Population Among Districts

- Percent deviation within a district is the result of dividing the actual population in the district by the ideal $1/5$ of the population and subtracting 1.00 from the result. Total deviation is calculated by adding the highest individual deviation plus the lowest individual deviation.
- Imagine a 5 district County with a population of 50,000. Ideal population per district is 10,000 (i.e. $1/5$ of total).

Consider this plan....

District	Population	Percent deviation	
1	10,300	+3	
2	10,500	+5	14.5%
3	9,050	-9.5	
4	9,700	-3	
5	10,450	+4.5	

- The TOTAL deviation in this plan is 14.5%.

Federal Statutes – Section 2 of Voting Rights Act

- Section 2 of the Voting Rights Act (42 USC § 1973) prohibits any voting practice or procedure that results in the “denial or abridgement” of anyone’s right to vote based on race, color or minority language status.
- Section 2 prohibits electoral systems, including redistricting, which dilute minority voting rights by denying minorities an equal opportunity to nominate and elect candidates of their choice. A violation of this type is sometimes called “vote dilution.”

Test for Violation

- Section 2 of the Voting Rights Act requires a showing that members of a protected class have less opportunity than other members of the electorate to elect representatives of their choice.
- Totality of circumstances.

Test for Violation (continued)...

Majority-Minority Districts

- The threshold requirements for Section 2 liability under the Voting Rights Act: (*Gingles* Factors)
 - (1) The minority group is sufficiently large and geographically compact to constitute a majority in a single-member district;
 - (2) The minority group is politically cohesive; and
 - (3) White bloc voting has regularly defeated the minority group's preferred candidate.

Thornburg v. Gingles, 478 U.S. 30 (1986).

Test for Violation (continued)....

Bartlett v. Strickland

- As a result of the Supreme Court's decision in *Bartlett v. Strickland*, 129 S. Ct. 1231 (2009), the first *Gingles* factor requires a showing that the minority group is more than 50% of a district-sized population.
- County is not required to draw a majority-minority district unless a compact district can be drawn with a minority population that is more than 50% of the voting age population.
- *Bartlett* does not, however, prohibit the County from drawing minority "influence" districts that keep smaller minority communities together, so long as race and ethnicity are not the predominant reasons for the district's boundaries.

Federal Statutes – Section 5 of Voting Rights Act

- Section 5 of the Voting Rights Act does not apply to the 2011 County redistricting process, given the County is not one of the areas in California that must seek “preclearance” from the Justice Department.
- Section 5 was an issue in the 2001 County redistricting process given the stipulation in *Garza v. County of Los Angeles*.

Los Angeles County Charter

- Article II, Section 4 of the County Charter provides for a Board of Supervisors consisting of 5 members.
 - “The County of Los Angeles shall have a Board of Supervisors consisting of five members, each of whom must be an elector of the district which he represents, must reside therein during his incumbency, must have been such an elector for at least one year immediately preceding his election, and shall be elected by such district....”

Los Angeles County Charter (continued)...

- Article II, Section 5 of the County Charter requires 5 supervisorial districts.
 - “The County is hereby divided into five supervisorial districts, the boundaries of which shall be and remain as they are now or until otherwise changed as provided in this Charter.”
- Any change to the number of supervisorial districts would require voter approval.

Los Angeles County Charter (continued)...

- Article II, Section 7 of the County Charter requires a 2/3rd vote (i.e. minimum 4 votes) to change district boundaries.
 - “The Board of Supervisors may, by a two-thirds' vote of its members, change the boundaries of any supervisorial district. No such boundaries shall ever be so changed as to affect the incumbency in office of any supervisor.....”

State Statutes - California Elections Code § 21500

- California Elections Code §§ 21500-21506, et seq. applies to the County redistricting process.
- Section 21500 provides:
 - Decennial redistricting required to equalize population
 - Must use census data
 - Must comply with Voting Rights Act
 - In establishing boundaries, Board may consider
 - Topography
 - Geography
 - Cohesiveness, contiguity, integrity, compactness of territory
 - Communities of interest of the districts

State Statutes (continued)...

California Elections Code § 21501.1

- Section 21501.1 requires minimum two public hearings.
 - “The board shall hold at least one public hearing on any proposal to adjust the boundaries of a district, prior to a public hearing at which the board votes to approve or defeat the proposal.”
- No maximum on public hearings. May choose to hold as many additional public hearings to solicit community input.

State Statutes (continued)...

California Elections Code § 21505

- Section 21505 provides:
 - The Board may appoint a committee (BRC) composed of residents of the county to study changing the boundaries of the supervisorial districts.
 - The BRC shall report to the Board its findings on the need for change of boundaries, and the recommended changes, within six months after Census data is released, but by no later than August 1st of the year following the census.
 - Recommendations of the BRC are advisory only.

State Statutes (continued)...

California Elections Code § 21506

- Section 21506 provides that:
 - No supervisor's term may be cut short by any change in the boundaries of his/her district.
 - A change in the boundaries of a supervisorial district shall not be made within 45 days before the first day for circulating nomination papers for an election of supervisors or between the direct primary election and the general election.

State Statutes (continued)...

California Voting Rights Act

- The California Voting Rights Act (CVRA) applies to “at large” multi-member elections, where the voters elect several officeholders from the same district.
- The California Voting Rights Act is not an issue for the County’s redistricting process.